



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*Handwritten initials*

Applicant: Ethan J. Bernstein et al. Examiner: Rise, Laurie Anne  
Serial No.: 10/693,347 Group Art Unit: 2176  
Filed: October 24, 2003 Docket: 60001.0278US01/MS304257.1  
Confirmation No.: 2716 Notice of Allow. Date: n/a  
Due Date: n/a  
Title: Method and Apparatus for Merging Electronic Documents Containing Markup Language

CERTIFICATE UNDER 37 CFR 1.8:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on April 18, 2006.

By: *[Signature]*  
Name: Merri D. Bami

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**27488**

PATENT TRADEMARK OFFICE

Sir:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Applicants' Statement Regarding a Non-Public Use
- ☒ Return postcard

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

Merchant & Gould LLC  
P.O. Box 2903  
Minneapolis, MN 55402-0903  
404.954.5100

By: *[Signature]*  
Name: D. Kent Stier  
Reg. No.: 50,640  
DKS:mdb

S/N 10/693,347



PATENT

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By:   
Name: Merri D. Bram

APPLICANTS' STATEMENT REGARDING A NON-PUBLIC USE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

This statement is presented by Applicants to disclose events related to a non-public use of implementations described in the Application for Letters Patent, US Application 10/693,347, hereinafter "the Application."

At least some of the features disclosed in the Application may have been included in a beta release of Office, which occurred in October 2002. Therefore, it is possible some of the system code incorporating the described implementations was disclosed to a controlled set of users more than one year from the filing date of the Application. This beta release of Office, which was conducted for testing purposes, included approximately five thousand users. It is significant to note that the beta was distributed to a fixed number of users, and each user acknowledged our non-disclosure agreement. The non-disclosure agreement included the following clause:

7. CONFIDENTIALITY. The Product, including its existence and features, and related information are proprietary and confidential information to Microsoft and its suppliers. Recipient agrees not to disclose or provide the Product, documentation, or any related information (including the Product features or the results of use or testing) to any third party, prior to commercial release of the Product. However, Recipient may disclose confidential information in accordance with judicial or other governmental order, provided Recipient shall give Microsoft reasonable written notice prior to such disclosure and shall comply with any applicable protective order or equivalent. Further, Recipient shall not be liable to Microsoft for disclosure of information which Recipient can prove (a) is already known to Recipient without an obligation to maintain the same as confidential; (b) becomes publicly known through no wrongful act of Recipient; (c) is rightfully received from a third party without breach of an obligation of confidentiality owed to Microsoft; or (d) is independently developed by Recipient. The obligations of this Section 7 are in addition to the terms of any confidentiality or non-disclosure agreement that may exist between Microsoft and Recipient.

Since the beta was distributed to a fixed number of users that acknowledged the above confidentiality clause, Applicants believe submission of the claims in the Application is proper.

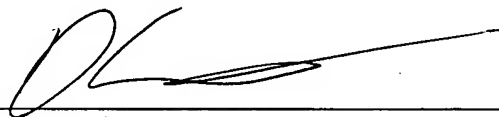
Respectfully submitted,

MERCHANT & GOULD P.C.

P.O. Box 2903  
Minneapolis, MN 55402-0903  
404.954.5066

Date: April 18, 2006

DKS:mdb

  
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